



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 2855-99

11 August 2000

Dear [REDACTED]

This is in reference to your application for reconsideration for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Specialty Advisor to the Surgeon General for Psychiatry dated 2 December 1999, a copy of which is enclosed. The Board also considered your rebuttal statement of 29 March 2000.

On 23 August 1994 this Board reviewed and denied your request to change the characterization of your discharge.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board also concluded that your exemplary service in Vietnam did not sufficiently extenuate or mitigate your extensive subsequent misconduct to the extent that recharacterization is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a

presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

DEPARTMENT OF PSYCHIATRY  
NAVAL MEDICAL CENTER  
PORTSMOUTH, VIRGINIA 23708-2197

6520  
0506:6-0837  
02 DEC 99

From: Case Reviewers  
To: Chairman, Board for Correction of Naval Records,  
Department of the Navy, Washington, D.C. 20370-2197

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF EX-  
~~XX~~

Ref: (a) 10 U.S.C. 1552

Encl: (1) BCNR file  
(2) Service Record  
(3) Medical Record

1. Pursuant to reference (a) a review of enclosures (1) through (3) was conducted to form opinions as to whether or not the petitioner's diagnosed Posttraumatic Stress Disorder (PTSD) was a significant factor in his misconduct of record.

2. FACTS OF THE CASE: (a) The petitioner served a tour of duty in Vietnam from 21 December 1967 to 03 January 1969. During this time combat history and casualty records stated that he sustained shrapnel wounds to his left thigh and arm. In fact, the petitioner received the Purple Heart.

(b) Upon return to the United States, evaluations of his performance declined significantly. He received four NJP's, mostly for UA and failure to obey lawful orders.

(c) On 20 February 1970, the patient had a psychiatric evaluation and was diagnosed with "depression, retarded." The evaluation mentioned several depressive symptoms including depressed mood, decline in appearance and functioning, difficulty concentrating, feelings of guilt and suicidal ideation. There was no mention of trauma, avoidance or hyperarousal. The petitioner mentioned no distress with regard to combat. In addition, he denied drug use.

(d) On 15 September 1970, the petitioner submitted a statement in which he admitted to using various drugs both prior and subsequent to his enlistment. His drug use included the period of time he was evaluated psychiatrically.

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**[REDACTED]**

(e) On 03 November 1970, the petitioner sustained self-inflicted gun shot wounds to his foot. In his initial statement to NIS, the petitioner told investigators that he had been shot by someone. Later, he admitted that he had shot himself. Investigation of the incident revealed "probable negligent handling of a weapon that was illegally in his possession while he was under the influence of drugs."

(f) His application for correction of military records dated 13 October 1993, under section nine, the petitioner stated, "my discharge from the USMC was caused by infractions while under the influence of drugs... I never used drugs before I was wounded in Nam... I turned to drugs because of depression from killing people."

(g) In a reply letter to the petitioner dated 29 August 1994, the Executive Director of the Board for Correction of Naval Records stated "drug abuse is no excuse for misconduct and you should be held responsible for your actions."

(h) The petitioner received another psychiatric evaluation dated 18 April 1998 from a civilian psychiatrist. In this evaluation, the petitioner met the DSM-IV criteria for Posttraumatic Stress Disorder, Chronic, with Delayed Onset. The evaluation ended with the statement "the patient has experienced these symptoms for 28 years since his return to the United States as Corporal of the Guard in San Diego."

3. OPINIONS: (a) The petitioner's drug abuse was amply documented. It was likely that his abuse of drugs accounted for (a significant portion of) his misconduct and caused or exacerbated his depressive symptoms.

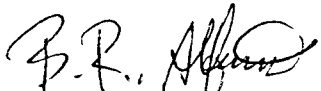
(b) There were several inconsistencies in the petitioner's statement. For example, in his psychiatric evaluation, he denied drug use. In his 15 September 1970 statement, however, he admitted to drug use prior and subsequent to enlistment. Another example of his initial report to NIS that someone else had shot him when, in fact, he had shot himself. These inconsistencies place his veracity in question.

(c) Though the civilian psychiatrist's evaluation of the petitioner's PTSD in 1998 was convincing, documentation from the time of the petitioner's misconduct and discharge (1970) do not seem to support the diagnosis for that period of time. One cannot be absolutely certain that the petitioner did not have

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PTSD around the time of his misconduct. It is possible that the petitioner's drug use may have masked PTSD. The lack of symptoms, however, suggested that even if he did have PTSD, the PTSD was not the major factor in his misconduct.

4. RECOMMENDATIONS: It is the recommendation of the reviewer's that the petitioner's request for change in discharge not be modified.



B.R. ALFONSO (P)  
LT MC USNR



R.B. ELLIS (P)  
CDR MC USN



E.D. SIMMER (P)  
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